

CSD 1163 [05/15/03]

Name, Address, Telephone No. & I.D. No.

John E. Bouzane

John E. Bouzane, Esq. SBN: 79804

Law Offices of John E. Bouzane

634 Oak Court

San Bernardino, CA 92410

909-889-5151

Case # : 09-11540-PB7

Debtor.: GREGORY SCOTT BEAUCHAMP

Judge...: PETER BOWIE

Trustee: RONALD STADTMUELLER

Chapter: ST

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

Filed : August 26, 2009 11:51:02

Deputy : ACROSBY

Receipt: 205825

Amount : \$150.00

In Re Gregory Scott Beauchamp

Debtor.

BANKRUPTCY NO.

09-11540-PM7

William K. No, Trustee of the Ho Family Trust

Moving Party

RS NO.

JEB-1

Gregory Scott Beauchamp

Respondent(s)

MOTION FOR RELIEF FROM AUTOMATIC STAY
(UNLAWFUL DETAINER)

Movant in the above-captioned matter moves this Court for an Order granting relief from the automatic stay on the grounds set forth below.

1. A Petition under Chapter ☒ 7 ☐ 11 ☐ 12 ☐ 13 was filed on 8/04/09.
2. Procedural Status:
 - a. ☒ Name of Trustee Appointed (if any): Ronald E. Stadtmueller
 - b. ☐ Name of Attorney of Record for Trustee (if any):
 - c. ☐ (Optional) Prior Filing Information:
Debtor has previously filed a Bankruptcy Petition on: _____.
If applicable, the prior case was dismissed on: _____.
 - d. ☐ (If Chapter 13 case): Chapter 13 Plan was confirmed on _____ or a confirmation hearing is set for _____.

Movant alleges the following in support of its Motion:

1. Debtor occupies the premises commonly known as (specify street address): 452 4th Street, Encinitas, CA
2. Debtor occupies the premises:

<input type="checkbox"/> on a month-to-month tenancy	<input type="checkbox"/> pursuant to a lease in default
<input type="checkbox"/> on a hold-over tenancy	<input checked="" type="checkbox"/> after a foreclosure sale
<input type="checkbox"/> on a tenancy at will	<input type="checkbox"/> pursuant to a terminated lease
3. Debtor has failed to pay the monthly rent of \$ _____ since _____.

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4. Procedural status in State Court (*fill in all applicable data for completed steps*):

- a. ☒ On 4/7/09, Movant served a Notice to Pay Rent or Quit on the Debtor(s).
- b. ☒ On 4/17/09, Movant filed a Complaint for Unlawful Detainer in State Court.
- c. ☒ Trial was held on 5/28/09.
- d. ☒ A Judgment was entered on said Complaint by the State Court on 6/19/09.

When required, Movant has filed separate Declarations pursuant to Local Bankruptcy Rule 4001-2(a)(5).

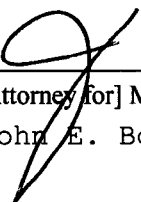
Movant attaches the following:

- 1. ☒ Copy of the State Court Unlawful Detainer Judgment.
- 2. ☒ Other relevant evidence: Trustee's Deed Upon Sale
- 3. ☐ (*Optional*) Memorandum of points and authorities upon which the moving party will rely.

WHEREFORE, Movant prays that this Court issue an Order granting the following:

- ☒ Relief as requested.
- ☒ Other: 1. That this order shall apply to conversion to any other chapter under the Bankruptcy Code;
2. That this order shall apply to any co-debtor;
3. That this order shall apply for 180 days as to any bankruptcy case involving the subject property.

Dated: 8/19/09



[Attorney for] Movant
John E. Bouzane

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): JOHN E. BOUZANE JOHN E. BOUZANE ATTORNEY AT LAW BAR #079804 634 OAK CT. SAN BERNARDINO, CA 92410 SAN BERNARDINO, CA 92410 TELEPHONE NO.: 909-889-5151 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): PLAINTIFF	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">F I L E D</div> Clerk of the Superior Court <div style="font-size: 1.2em;">JUN 19 2009</div> By _____ Deputy						
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 325 S. MELROSE DR MAILING ADDRESS: CITY AND ZIP CODE: VISTA, CA. 92081 BRANCH NAME: NORTH COUNTY DIVISION	CASE NUMBER: 37-2009-00038371-CL-UD-NC						
PLAINTIFF: WILLIAM K. HO (AND /OR) SUNEE K. HO, TRUSTEE OF THE HO FAMILY LIVING TRUST, DATED 4/28/90 INCLUDING ANY ASSIGNORS OR SUCCESSORS DEFENDANT: MELVIN HAROLD BEAUCHAMP, GREGORY SCOTT BEAUCHAMP & LISA							
<div style="text-align: center; font-weight: bold;">JUDGMENT—UNLAWFUL DETAINER</div> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> By Clerk</td> <td><input type="checkbox"/> By Default</td> <td><input checked="" type="checkbox"/> After Court Trial</td> </tr> <tr> <td><input checked="" type="checkbox"/> By Court</td> <td><input type="checkbox"/> Possession Only</td> <td><input type="checkbox"/> Defendant Did Not Appear at Trial</td> </tr> </table>		<input type="checkbox"/> By Clerk	<input type="checkbox"/> By Default	<input checked="" type="checkbox"/> After Court Trial	<input checked="" type="checkbox"/> By Court	<input type="checkbox"/> Possession Only	<input type="checkbox"/> Defendant Did Not Appear at Trial
<input type="checkbox"/> By Clerk	<input type="checkbox"/> By Default	<input checked="" type="checkbox"/> After Court Trial					
<input checked="" type="checkbox"/> By Court	<input type="checkbox"/> Possession Only	<input type="checkbox"/> Defendant Did Not Appear at Trial					

JUDGMENT

1. ☐ **BY DEFAULT**
- a. Defendant was properly served with a copy of the summons and complaint.
 - b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
 - c. Defendant's default was entered by the clerk upon plaintiff's application.
 - d. ☐ **Clerk's Judgment** (Code Civ. Proc., § 1169). For possession only of the premises described on page 2 (item 4).
 - e. ☐ **Court Judgment** (Code Civ. Proc., § 585(b)). The court considered
 - (1) ☐ plaintiff's testimony and other evidence.
 - (2) ☐ plaintiff's or others' written declaration and evidence (Code Civ. Proc., § 585(d)).
2. ☒ **AFTER COURT TRIAL.** The jury was waived. The court considered the evidence.
- a. The case was tried on (date and time): 5/28/09 @ 8:10 AM D-N27
before (name of judicial officer):
 - b. Appearances by:

<input checked="" type="checkbox"/> Plaintiff (name each): WILLIAM K. HO (AND /OR) SUNEE K. HO, TRUSTEE OF THE HO FAMILY LIVING TRUST, DATED 4/28/90 INCLUDING ANY ASSIGNORS OR SUCCESSORS IN INTEREST <input type="checkbox"/> Continued on Attachment 2b (form MC-025). <input checked="" type="checkbox"/> Defendant (name each): MELVIN HAROLD BEAUCHAMP, GREGORY SCOTT BEAUCHAMP, AND LISA BEAUCHAMP <input type="checkbox"/> Continued on Attachment 2b (form MC-025).	<input checked="" type="checkbox"/> Plaintiff's attorney (name each): (1) JOHN E. BOUZANE (2) <input type="checkbox"/> Defendant's attorney (name each): (1) (2)
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 - c. ☐ Defendant did not appear at trial. Defendant was properly served with notice of trial.
 - d. ☒ A statement of decision (Code Civ. Proc., § 632) ☒ was not ☐ was requested.

PLAINTIFF: WILLIAM K. HO (AND /OR) SUNEE K. HO, TRUSTEE OF THE HO FAMILY LIVING TRUST, DATED 4/28/90 INCLUDING ANY ASSIGNORS OR SUCCESSORS	CASE NUMBER:
DEFENDANT: MELVIN HAROLD BEAUCHAMP, GREGORY SCOTT BEAUCHAMP & LISA	37-2009-00038371-CL-UD-NC

JUDGMENT IS ENTERED AS FOLLOWS BY:



THE COURT



THE CLERK

3. Parties. Judgment is

- a. ☒ for plaintiff (*name each*): WILLIAM K. HO (AND /OR) SUNEE K. HO, TRUSTEE OF THE HO FAMILY LIVING TRUST, DATED 4/28/90 INCLUDING ANY ASSIGNORS OR SUCCESSORS IN INTEREST
and against defendant (*name each*): MELVIN HAROLD BEAUCHAMP, GREGORY SCOTT BEAUCHAMP & LISA BEAUCHAMP

☐ Continued on Attachment 3a (form MC-025).

- b. ☐ for defendant (*name each*):

4. ☒ Plaintiff ☐ Defendant is entitled to possession of the premises located at (*street address, apartment, city, and county*):
452 4TH ST. ENCINITAS, CA 92024/SAN DIEGO COUNTY

5. ☒ Judgment applies to all occupants of the premises including tenants, subtenants if any, and named claimants if any (Code Civ. Proc., §§ 715.010, 1169, and 1174.3).

6. Amount and terms of judgment

- a. ☐ Defendant named in item 3a above must pay plaintiff on the complaint:

(1) <input type="checkbox"/> Past-due rent	\$ 0.00
(2) <input type="checkbox"/> Holdover damages	\$
(3) <input type="checkbox"/> Attorney fees	\$
(4) <input type="checkbox"/> Costs	\$
(5) <input type="checkbox"/> Other (<i>specify</i>):	\$
(6) TOTAL JUDGMENT	\$ 0.00

- b. ☐ Plaintiff is to receive nothing from defendant named in item 3b.

☐ Defendant named in item 3b is to recover costs: \$ 0.00

☐ and attorney fees: \$ 0.00

- c. ☒ The rental agreement is canceled. ☒ The lease is forfeited.

7. ☐ Conditional judgment. Plaintiff has breached the agreement to provide habitable premises to defendant as stated in Judgment—Unlawful Detainer Attachment (form UD-110S), which is attached.

8. ☐ Other (*specify*):

☐ Continued on Attachment 8 (form MC-025).

Date: JUN 19 2009



JACQUELINE M. STERN

JUDICIAL OFFICER

Date: ☐ Clerk, by _____, Deputy

(SEAL)

CLERK'S CERTIFICATE (Optional)

I certify that this is a true copy of the original judgment on file in the court.

Date:

Clerk, by _____, Deputy

DOC 2009-0281769



WHEN RECORDED MAIL TO:

WILLIAM HO
P.O. BOX 9454
GLENDALE, CA. 91226

MAY 27, 2009 3:06 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
DAVID L. BUTLER, COUNTY RECORDER
FEES: \$81.00
OC: NA

PAGES: 3

MAIL TAX STATEMENTS TO:

WILLIAM HO
P.O. BOX 9454
GLENDALE, CA. 91226



Space above this line for Recorder's use only

TITLE ORDER NO.: 30127247

TS NO.: 20089170000051
LOAN TYPE: Conventional

9945**TRUSTEE'S DEED UPON SALE**

A.P.N. NO.: 258-074-27-00

The undersigned grantor declares under penalty of perjury:

- 1) The grantee herein WAS NOT the foreclosing beneficiary.
- 2) The amount of the unpaid debt together with costs was.....\$ 369,492.29
- 3) The amount paid by the grantee at the trustee sale was.....\$ 590,000.00
- 4) The documentary transfer tax is.....~~NA~~ \$649.00
- 5) Said property is INCORPORATED

and FIRST AMERICAN LOANSTAR TRUSTEE SERVICES, (herein called Trustee), as the duly appointed Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without warranty, express or implied to

WILLIAM K. HO (AND/OR) SUNEE K. HO, TRUSTEE OF THE HO FAMILY LIVING TRUST,
DATED 4-28-90

(herein called Grantee), all of its right, title and interest in and to that certain property situated in the County of SAN DIEGO, State of California, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HERREIN FOR ALL PURPOSES.

RECITALS:

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated 7/3/2000 and executed by,

MELVIN HAROLD BEAUCHAMP, AN UNMARRIED MAN

as Trustor, and recorded 7/7/2000 as Instrument No. 2000-0359859, of Official Records of SAN DIEGO County, California, and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

9947

EXHIBIT A

20089170000051

LEGAL DESCRIPTION:

THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO CITY OF ENCINITAS, AND DESCRIBED AS FOLLOWS:

THE EAST HALF OF LOT 7 IN BLOCK 42, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 148, SAID MAP RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, JUNE 12, 1883.

SAID EASTERLY HALF MEASURED AN EQUAL DISTANCE ALONG THE NORTH LINE OF SAID LOT 7 FROM THE NORTHEAST CORNER AND THE NORTHWEST CORNER OF SAID LOT 7, AND MEASURED AN EQUAL DISTANCE ALONG THE SOUTH LINE OF SAID LOT 7 FROM THE SOUTHEAST CORNER AND THE SOUTHWEST CORNER OF SAID LOT 7.